

IN THE UNITED STATES BANKRUPTCY COURT FOR THE
SOUTHERN DISTRICT OF TEXAS, HOUSTON DIVISION

RANDY WILLIAMS,
CHAPTER 7 TRUSTEE OF POSITIVE
HEALTH MANAGEMENT, INC.
Plaintiff,

V.

PRIORITY HEALTHCARE L.L.C.,
KIMBERLY F. ZIEGLER,
Defendants.

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ADVERSARY NO. 09-03282

EMERGENCY MOTION FOR STATUS CONFERENCE

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff Randy Williams, Plaintiff in this adversary and Chapter 7 Trustee of Positive Health Management, Inc. (“*Trustee or Plaintiff*”), files this Emergency Motion for Status Conference (the “*Motion*”) pursuant to FED. R. BANK. P. 7016 requesting that the Trustee and his counsel be permitted to update the Court on the status of this adversary proceeding and the progress made thus far.

This Motion is filed on an emergency basis because the Trustee understands that this morning the Court expressed concerns about the case and indicated it would dismiss the adversary proceeding for lack of prosecution.¹

¹ Counsel understands the Court was upset that a motion for continuance was not filed in connection with the hearings set for today. Counsel apologizes to the Court. The reason a motion for continuance was not filed is because on two previous occasions, the parties and their counsel submitted an agreed order that maintained the injunction in effect and which also re-set the hearing on the preliminary injunction. The prior orders were uploaded and counsel presented them to the Court and made an announcement on the status of the case. In the future, counsel will file a motion for continuance in addition to an agreed order. Counsel respectfully requests that the Court grant them a dispensation on the events of today.

The Trustee and his counsel will show the Court that this adversary proceeding is being prosecuted very diligently. For the past two months, the Trustee's professionals have been securing bank records and corporate documents of the Debtor and analyzing hundreds of financial transactions that relate to this adversary and support the claims of the Trustee. The magnitude of the fraud involved in the Debtor's main bankruptcy case is significant.

The agreed order submitted to the Court yesterday continues the injunction in effect until the Trustee's counsel has reviewed financial transactions relating to defendant Kim Ziegler and has taken her deposition. Ms. Ziegler's deposition is scheduled for the second week in December 2009.

Counsel for the Trustee will make themselves available at the convenience of the Court. Again, before the Court dismisses the adversary, the Trustee and his counsel respectfully request the opportunity to brief the Court on the events and clear up any misunderstanding in connection with the hearing scheduled for today.

Dated: November 24, 2009

Respectfully submitted,

By: *Kirk A. Kennedy*
Kirk A. Kennedy
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Special Counsel for Chapter 7 Trustee of
Positive Health Management

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of this Motion has been served upon counsel for all parties, by the method indicated below, on this the 24th day of November 2009 to counsel for the Defendants by first class mail, electronic mail, and/or by fax transmission.

Kirk A. Kennedy
Kirk A. Kennedy